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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

भाग III—खण्ड 3

[PART III—SECTION 3]

लघु प्रशासनों से सम्बन्धित अधिसूचनाएं

Notifications relating to Minor Administrations

UNION TERRITORY OF DADRA AND NAGAR HAVELI

ADMINISTRATION OF DADRA AND NAGAR HAVELI

Silvassa, the 20th September 1977

No ADM/LAW/102/37/77.—Whereas the drafts of notification was published as required by Sub-Section (5) of Section 26 of the Payment of Wages Act, 1936 (No 24 of 1936) on page No 26 to 32 dated 16-4-77 of the Government of India gazette, Part-III—Section-3—Notifications relating to Minor Administrations under the Notification, No ADM/LAW/102/9/77 dated 30-3-1977 of the Administration, Dadra and Nagar Haveli, inviting objections/suggestions from all persons likely to be affected thereby within a period of three months from the date of its publication in the Government of India gazette,

AND, WHEREAS, no objection/suggestion was received, NOW, therefore, in exercise of the powers conferred by Sub-Section (1) and (2) of Section 26 of the Payment of Wages Act, 1936 (No 4 of 1936), the Administrator, Dadra and Nagar Haveli, hereby makes the following Rules, namely;

1 Short Title and Commencement

- (1) These Rules may be called 'The Dadra and Nagar Haveli Payment of Wages Rules, 1977
- (2) They shall extend to the whole Territory of Dadra and Nagar Haveli
- (3) They shall come into force from the date of its publication in the Government of India gazette.

2 Definitions

In these Rules, unless there is any thing repugnant in the subject or context -

- (a) "The Act" means the Payment of Wages Act, 1936 (IV of 36)

- (b) "The Authority" means the Authority appointed under Sub-Section 1 of section 15 of the Act,
- (c) "The court" means the court mentioned in sub-section 1 of section 17 of the Act,
- (d) "Deduction for breach of contract" means a deduction made in accordance with the provisions of the proviso 2 sub-section (2) of section 9
- (e) "Deduction for damage or loss" means a deduction made in accordance with the provisions of clause (c) of sub-section (2) of section 7,
- (f) "Establishment" means a factory or an industrial establishment as defined in section 2(u) of the Act,
- (g) "Form" means a form appended to these rules;
- (h) "Inspector" means an Inspector authorised by or under section 14 of the Act,
- (i) "Labour Commissioner" means the officer appointed as such by the Administrator of Dadra and Nagar Haveli
- (j) "Section" means a section of the Act;
- (k) "Pay Master" means an employer or any other persons responsible under section 3 of the Act for the payment of wages

3 Register of Fines

- 1 In any establishment in respect of which the employer has obtained approval under sub-section 1 of section 8 by a list of Acts and omissions in respect of which fines may be imposed the Pay Master shall maintain a register of fines in Form-I
- 2 At the beginning of the Register of fines there shall be entered serially numbered the approved purpose or purposes on which the fines realised are to be expended.

- 3 When any disbursements are made from the fines realised, a deduct entry of the amount so expended shall be made in the Register of Fines and a voucher or receipt in respect of the amount shall be affixed to the Register Vouchers and Receipts in connection with any expenditure from the fines fund shall be produced for the scrutiny of the Inspector when required by him.

4 *Register of deductions for damage or loss.*

In every establishment in which deductions for damage or loss are made the pay Master shall maintain the register required by sub section 2 of section 10 in Form-II

- 5 *In every establishment to which this Act applies or is made applicable the Pay Master shall maintain the Register of Wages in Form-III :*

Provided that it in the case of any establishment the Labour Commissioner is of the opinion that existing wages sheets or registers maintained by that establishment or at the Head Office thereof, give all the particulars necessary for the enforcement of the Act he may, by order in writing exempt such establishments from maintaining a register of wages required under this rule.

6 *Maintenance of Registers :*

The registers required by rules 3, 4, 5, and 16 shall always be made available for inspection by Inspector and be preserved by the employer for three years after the date of the last entry made in them.

7 *Places for Displaying Notices :*

The Pay Master shall display in a conspicuous place at or near the main entrance of the establishment a notice in English and in the language of the majority of the persons employed therein showing the days on which the wages are to be paid

8 *Prescribed Authority :*

The Labour Commissioner, shall be the authority competent to approve under sub-section (1) of section 8 of the Act, act and omissions in respect of which fines may be imposed and, under sub-section (8) of section 8 the purposes on which the proceeds of fines shall be expended.

9 *Application in respect of fines :*

Every employer requiring the power to impose fines in respect of any acts and omissions on the part of employed person shall send to the Labour Commissioner.

- (a) A list in English in duplicate clearly defining such acts and omissions, and
- (b) in case where the employer himself does not intend to be the sole person empowered to impose fines, a list in duplicate showing those appointments of which the incumbents may pass orders imposing fines

10 *Approval of List :*

The Labour Commissioner on receipt of the list referred to in rule 9, may, after such enquiry as he considers necessary, pass orders either :

- (a) disapproving the list or
- (b) approving the list either in its original form or as amended by him in which case such list as amended by him shall be considered to be the approved list

Provided that no order disapproving or amending any list shall be passed unless the employer is given an opportunity of showing cause in writing why the list as submitted by him should be approved

11 *Posting of List*

The employer shall display at or near the main entrance of his establishment a copy in English together with a translation thereof in the language of the majority of the persons employed therein, of the list of acts and omissions approved under rule 10

12 *Persons Authorised to impose Fines :*

No fine may be imposed by any person other than the employer or a person holding an appointment named in the list submitted under rule 9

13. *Procedure in imposing fines and deductions :*

Any person desiring to impose a fine on an employed person or to make a deduction for damage or loss shall explain personally to the said person the act or omission or damage or loss in respect of which the fine or deduction is proposed to be imposed and the amount of the fine or deduction, which it is proposed to impose, and shall hear his explanation in the presence of atleast one other employed person.

14. *Information to Pay Master :*

The person imposing a fine or directing the making of deduction for damage or loss shall at once inform the pay master of all the particulars so that the register prescribed in rule 3 or 4 may be duly completed

15 *Deductions for breach of contract*

- (1) No deduction for breach of contract shall be made from the wages of an employed person who is under the age of 15 years or is a woman
- (2) No deduction for breach of contract shall be made from the wages of any employed person unless
 - (a) There is provision in writing forming part of the terms of the contract of employment requiring him to give notice of the termination of his employment and
 - (i) the period of this notice does not exceed 15 days or the wage period, whichever is less and
 - (ii) the period of this notice does not exceed the period of notice which the employer is required to give of the termination of that employment.
 - (b) This rule has been displayed in English and in the language of the majority of the employed persons at or near the main entrance of the establishment and has been so displayed for not less than one month before the Commencement of the absence in respect of which the deduction is made
 - (c) A notice has been displayed at or near the main entrance of the establishment showing the names of the persons from whom the deduction is proposed to be made, the number of days wages to be deducted and the conditions if any on which the deduction shall be remitted

Provided that where the deduction is proposed to be made from all the persons employed in any department or section of the establishment it shall be sufficient, in lieu of giving the names of persons in such departments or sections, to specify the department or section affected

- (3) No deduction for breach of contract shall exceed the wages of the person employed for the period by which the notice of termination of services given falls short of the period of such notice required by the contract of employment
- (4) If any conditions have been specified in the notice displayed under clause (c) of sub rule 2 no deduction for breach of contract shall be made from any person who has complied with these conditions

16 *Advances*

(1) An advance of wages not already earned shall not, without the previous permission of an inspector exceed an amount equivalent to the wages earned by a person during the preceding 4 calendar months or if he has not been employed for that period the wages he is likely to earn during the four subsequent calendar months

(2) The advance may be recovered in instalments by deductions from wages spread over not more than 18 months. No instalment shall exceed 1/4 of the wages for the wage period in respect of which the deduction is made.

(3) The amounts of all advances sanctioned and the repayments thereof shall be entered in a register in form IV

17 Annual Return

The paymaster shall send a return in form V in respect of his establishment so as to reach the Labour Commissioner not later than 15th February following the end of the calendar year to which the return relates

18 In every establishment a notice shall be displayed by the paymaster specifying the rates of wages payable to all the persons employed in that establishment other than those who are employed in position of supervision or management

19 (1) Where the authority or the court as the case may be directs that any cost shall not follow the event, he shall state his reasons for so doing in writing

(2) The cost which may be awarded shall include

- the charges necessarily incurred on account of court fees,
- the charges necessarily incurred on subsistence money to witnesses, and
- pleader's fees which shall ordinarily be Rs. 10/- provided that the Authority or the Court, as the case may be, in any proceeding, may reduce the fee to a sum not less than Rs. 5/- or increase it to a sum not exceeding Rs. 30/-

(3) When a party engages more pleaders than one to defend a case he shall be allowed one set of costs only

20 The Authority or the Court, as the case may be, may fix fees on the payment of which any person entitled to do so may obtain copies of any documents filed with the Authority or the Court, as the case may be

Provided that the Authority or the Court, as the case may be, may, in consideration of the poverty of the applicant, grant copies free of costs

21 Fees

The fees payable in respect of proceedings under the Act specified in column 1 of the Table below shall be at the rates specified against each of them in column 2 thereof

T A B L E

| 1 | 2 |
|---|--|
| (i) An application to summon a witness | Twenty five paise in respect of each witness |
| (ii) An application made to the Authority under section 15 of the Act | One per cent of the amount of claim or Rs. 1/-, which is less |
| (iii) An Appeal preferred before the District Court under section 17 of the Act | The same rate of fees as chargeable in respect of memorandum of appeal if filed in accordance with the provisions of the Civil Law in force. |

22 Abstracts

The abstract of the Act and of the rules made thereunder to be displayed under section 25 shall, be in Form VI

23 Penalties :

Any breach of any of these rules shall be punishable with fine which may extend to two hundred rupees

By order of the Administrator,

JANAK JUNEJA
Secretary to the Administrator,
Dadra and Nagar Haveli,
Silvassa

FORM—I

[see rule 3(1)]

REGISTER OF FINES

Name of Establishment

| Serial No | Name of Employed person | Father's or husband's name | Nature of employment | Rate of Wages | Wages earned during the wage-period | Act of omission for which fine imposed | Fines | | | REMARKS |
|-----------|-------------------------|----------------------------|----------------------|---------------|-------------------------------------|--|---|-------------------------|--------------------------------|---------|
| | | | | | | | whether woman showed cause if so enter date | Date and amount of fine | Date on which fine is realised | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |

FORM-II

[See rule 4]

Register of Deduction for Damage or Loss caused to the Employer by the Neglect or Default of the Employed persons
Name of Establishment

| Serial No | Name of employed person | Father's or husband's name | Nature of employment | Damage or loss caused and its Value | Whether worker showed cause against deduction or not if so enter date | The name of the person in whose presence a workman's explanation is heard in respect of an employee engaged by a contractor | Date and amount of deduction imposed | No of instalments, if any | Date on which total amount realised | REMARKS |
|-----------|-------------------------|----------------------------|----------------------|-------------------------------------|---|---|--------------------------------------|---------------------------|-------------------------------------|---------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |

FORM III

[See rule 5]

REGISTER OF WAGES

Name of Establishment . . .
Location . . .
Post office . . .

Name and address of Employer . . .

Wage-Period from . . .

to . . .

| Serial No | Name of employed person | Designation | Father's/husband's name | Total attendance/ No of units worked | Rate of Wages | | | Wages earned | | | | TOTAL |
|-----------|-------------------------|-------------|-------------------------|---|---------------|-----|------------------|--------------|-----|-----------|------------------|-------|
| | | | | | Basic | D A | other allowances | Basic | D A | over time | other allowances | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |

Deduction from wages on account of

| Fines | Damage or loss | Loss caused to employer by neglect or default of employed persons | Amenities/Service/house rent | Provident fund Income-tax/postal Insurance Co-operative Societies | Other deduction | Total deductions | Net amount payable | Accrual date | REMARKS |
|-------|----------------|---|------------------------------|---|-----------------|------------------|--------------------|--------------|---------|
| 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 |

FORM-IV

[See rule 16(3)]

REGISTER OF ADVANCES MADE OF EMPLOYED PERSONS

| Name of Establishment | | | | | | | | | | | |
|-----------------------|-------------------------|----------------------------|----------------------|------------------------------|----------------------------|-----------------------------------|---------------------------------------|---------------------------|----------------------------|---------------------------------|---|
| Serial No | Name of employed person | Father's or Husband's name | Nature of employment | Earning during a wage period | Date and amount of advance | Purpose(s) for which advance made | Instalments for re-payment of advance | | Date of instalments repaid | Date on which total amount paid | Signature or thumb impression of the workers or remarks |
| | | | | | | | No of instalment | Amount of each instalment | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |

FORM—V

(See Rule 17)

ANNUAL RETURN

Return for the year ending 31st December, 19

1. (a) Name of the Establishment, location and post address.

(b) Name and address of the Manager/Contractor—

(c) Name of the Company/Firm owing the establishment and full address of its registered office. . .

(d) Name and residential address of the Managing agent/Director/Partner in charge of the day-to-day affairs of the establishment . . .

(e) Name and address of the person if any, other than the Manager/Contractor, who is responsible for payment of wages in terms of the proviso to section 3 of the payment of wages Act, 1936

2 Number of days worked during the year. . .

(a) Number of man-days worked during the year .

| | |
|----------|---|
| Children | Persons Receiving less than Rs. 400/- per month |
| Adults | |

| | |
|--|--|
| (b) Average daily No of person, employed during the year | Persons receiving less than Rs. 400/- per month. |
| Adults | |
| Children. | |

(c) Gross amount paid as remuneration to persons, getting less than, Rs. 400/- per month including deductions under Section 7(2) is of which the amount due to profit-sharing bonus is and that due to money value of concessions is

4 Total wages paid including deductions under section 7(2) on the following accounts .

Persons receiving less than Rs 400/- per month.

(a) Basic wages including overtime wages and non-profit sharing bonus

(b) Dearness and other allowances in cash

(c) Arrears of pay in respect of previous year paid during the year

5 Number of cases and amount realised as —

Persons receiving less than Rs. 400/- per month

No of cases Amount

(a) Fines.

(b) Deductions for damage or loss

(c) Deductions for breach of contract.

6 Disbursement from the fine fund

Purpose Amount

(a)

(b)

(c)

(d)

7 Balance of fines fund in hand at the end of the year.

Signature

Designation

"Strike off whichever is not applicable

This is the aggregate number of attendances during the year

The average daily number of persons employed during the year is obtained by dividing the aggregate number of attendances during the year by the number of working days.

Money value of concessions should be obtained by taking the difference of the cost price paid by the employer and the actual price paid by employees for supplies of essential commodities given free or at concessional rates.

FORM—VI

(See rule 22)

Abstract of the Payment of Wages Act, 1936 and the Rules made thereunder :

- 1 The act applies to the payment of wages to persons employed in any Industrial Establishments.
2. No employed person can give up by contract or agreement his rights under the Act

Definition of Wages

3. "Wages" means all remuneration whether salary, allowances or otherwise payable to a person employed in respect of his employments or of work done in such employment

It includes—

- (a) any remuneration payable under any award or settlement between the parties or order of a court;
- (b) any remuneration to which the person employed is entitled in respect of overtime work or holiday or any leave period;
- (c) any additional remuneration payable under the terms of employment,
- (d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;
- (e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force;

It includes—

- (1) any bonus which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court,
- (2) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by an order of the Central Government;
- (3) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
- (4) any travelling allowance or the value of any travelling concession;
- (5) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment, or
- (6) any gratuity payable on the termination of employment in cases other than those specified in Sub-clause (d) [section 2 (vi) of the Act].

Responsibility for and method of payment

- 4 The employer is responsible for the payment under the Act of wages to persons employed under him, and any contractor employing person is responsible for payment to the persons he employs.
- 5 Wages periods shall be fixed for the payment of wages at intervals not exceeding one month.
- 6 Wages shall be paid on a working day within seven days of the end of the wage-period (or within 10 days if 1,000 or more persons are employed).

The wages of a person discharged shall be paid not later than the second working day after his discharge

7. Payment in kind is prohibited.

Fines and deductions

- 8 No deductions shall be made from wages except those authorised under the Act, (See paragraphs 9-18 below)

9. (1) Fines can be imposed only for such acts and omissions as the employer may, with the previous approval of the Labour Commissioner, specify by notice displayed at or near the entrance of the workplace or places at the establishment and after giving the employed person an opportunity for explanation

(2) Fines—

- (a) shall not exceed three paise in the rupee,
- (b) shall not be recovered by instalments or later than sixty days of the date of imposition,
- (c) shall be recorded in a register and applied to such purposes beneficial to the employed persons as are approved by the inspector, and
- (d) shall not be imposed on an employed person who is under the age of fifteen years

10. (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working and such deductions must not exceed an amount which is in the same proportion to his wages for the wage period as the time he was absent in that period is to the total time he should have been at work.

- (b) If ten or more employed persons, acting in concert, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but

- (i) no deduction for breaking contract can be made from a person under fifteen or a woman,

- (ii) there must be a provision in writing which forms part of the contract of employment or the certified Standing Orders, requiring that a specific period of notice of intention to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker, must be given the employee and that wages may be deducted in lieu of such notice,

- (iii) the above provision must be displayed at or near entrance of the work-place or places at the establishment or work place,

- (iv) no deduction of this nature can be made until a week's notice that this deduction is to be made has been posted at or near the main entrance of the work-place or places at the establishment or work place;

- (v) no deduction must exceed the wages of the employed persons for the period by which the notice he gives of leaving employment, is less than the notice he should have given under his contract

- 11 Deductions can be made for damage to or loss of goods expressly entrusted to an employed person for loss of money for which he is required to account, where such damage or loss is due to his neglect or default.

Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed persons an opportunity for explanation.

- 12 Deductions can be made, equivalent to the value thereof, for house accommodation supplied by the employer or by the Government or any housing board set up under any law for the time being in force (whether the Government or the board is the employer or not) or any other authority engaged in the business of subsidising house accommodation which may be specified in this behalf by the Central Government amenities and services (other than tools and raw materials) supplied by the employer; provided these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorised by order of the Central Government

13. (a) Deductions can be made for recovery of advance or for adjustment of over payment of wages.

- (b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period.

- (c) Advances of whatever nature can be made at the employer's discretion during the employment
14. Deduction can be made for subscription to and for repayment of advances from any recognised provident fund
 15. Deduction can be made for payment to co-operative societies approved by the Central Government or to the postal insurance, subject to any conditions imposed by the Central Government
 16. Deductions can be made for repayment of loans granted to the employed persons from funds constituted for welfare of labour
 17. Deductions can also be made for repayment of loans granted for house building and other purposes
 18. Deductions can also be made with the written authorisation of the person employed or payment of any premium on his life insurance policy to the Life Insurance Corporation of India or for the purchase of securities of the Government of India or of any State Government or for being deposited in any post office savings bank in furtherance of any savings scheme of any such Government
 19. Any loss of wages resulting from withholding of increment or promotion, reduction to a lower post or time-scale or to a lower stage in a time-scale or suspension does not constitute deduction from wages within the meaning of the Act. For this purpose the rules framed by an employer in relation to his employees in the establishment for the purpose of any of the aforesaid penalties shall provide that—
 - (i) any such penalty as aforesaid, except the penalty of suspension, shall not be imposed unless the person concerned—
 - (a) has been informed for the charges in respect of which it is proposed to impose the penalty;
 - (b) has been given a reasonable opportunity of showing cause why the proposed penalty should not be imposed;
 - (ii) the person concerned is given a right of appeal against any order imposing the penalty

Inspection

20. An Inspector can enter on any premises and can exercise the powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act

Complaints of deductions or delays

21. (a) Where irregular deductions are made from wages, or delays in payment take place, an employed person can make an application in the prescribed form within 12 months to the Authority appointed by the Central Government for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for delay is shown
- (b) Any legal practitioner, official of a registered trade union, Inspector under the Act or other person acting

with the authority can make the complaint on behalf of an employed person

(c) A single application may be presented by, or on behalf of any number of persons belonging to the same establishment the payment of whose wages has been delayed.

Action by the Authority

22. The authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund of illegal deductions.

If a malicious or vexatious complaint is made, the authority may impose a penalty not exceeding Rs 50/- on the application and order that it be paid to the employer

In a case in which compensation is directed to be paid under section 15(3) the authority may direct that a penalty not exceeding fifty rupees be paid to the State Government by the employer or any other person responsible for the payment of wages.

Appeal against the Authority

23. An appeal against an order dismissing either wholly or in part an application or against a direction may be preferred within 30 days to the District Court,—
 - (a) by the employer if the total amount directed to be paid exceed Rs 300/-,
 - (b) by an employed person or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under the Act or any other person permitted by the authority to make an application, if the total amount of wages withheld from him exceeds Rs. 20 from unpaid group to which he belongs or belonged exceeds fifty rupees;
 - (c) by a person directed to pay a penalty for a malicious or vexatious application

Punishments for breaches of the Act

24. Any one tried for delaying the payment of wages beyond the due date, or making any unauthorised deduction from wages is liable to a fine up to Rs. 500 but only if prosecuted with the sanction of the Authority or the Appellate Court.
25. The employer who—
 - (1) does not fix a wage-period, or
 - (2) make payment in kind, or
 - (3) fails to display at or near the main entrance of the work-place or places at the establishment or work place this abstract in English and in the language of the majority of the employed persons, or
 - (4) breaks certain rules made under the Act is liable to fine not exceeding Rs 200. A complaint to this effect can be made only by the Inspector or with his sanction

